

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 287 – HB 701

February 2, 2023

SUMMARY OF BILL: Expands the offense of solicitation of a minor to include statutory rape by an authority figure. Requires a person convicted of continuous sexual abuse of a child be sentenced to community supervision for life.

FISCAL IMPACT:

Increase State Expenditures – \$181,600 Incarceration

Decrease Local Expenditures – \$5,100/FY23-24 and Subsequent Years

Assumptions:

Assumptions Relative to Community Supervision

- Based on information previously provided by Department of Correction (DOC), there has been an average of 1.10 admissions per year for continuous sexual abuse of a child over the last 10 years.
- Pursuant to Tenn. Code Ann. 40-35-501(aa)(1), a person convicted of continuous sexual abuse of a child is required to serve 100 percent of the sentence imposed.
- The average sentence for the Class A felony offense of continuous sexual abuse of a child is 23.91 years.
- Any impact to DOC resulting from requiring such offenders be sentenced to community supervision for life will be accomplished utilizing existing resources. Any fiscal impact is estimated to be not significant.

Assumptions Relative to Solicitation of a Minor

- Pursuant to Tenn. Code Ann. § 39-13-528(a), a person 18 years of age or older commits the offense of solicitation of a minor if one solicits a person whom the solicitor knows or should know is a minor or a law enforcement officer posing as a minor, to engage in conduct that, if completed, would constitute a violation by the soliciting adult of one or more of the following 13 offenses:
 - Rape of a child;
 - Aggravated rape;
 - Rape;
 - Aggravated sexual battery;
 - Sexual battery by an authority figure;
 - Sexual battery;

- Statutory rape;
 - Especially aggravated sexual exploitation of a minor;
 - Sexual activity involving a minor;
 - Trafficking for commercial sex acts;
 - Patronizing prostitution;
 - Promoting prostitution; and
 - Aggravated sexual exploitation of a minor.
- The proposed language will expand the offense of solicitation of a minor to include statutory rape by an authority figure.
 - Pursuant to Tenn. Code Ann. § 39-13-528(c), a person convicted of solicitation of a minor is sentenced one classification lower than the most serious crime solicited.
 - Pursuant to Tenn. Code Ann. § 39-13-506(d)(2)(A), statutory rape is a Class E felony; therefore, solicitation of a minor to engage in conduct that, if completed, would constitute statutory rape is a Class A misdemeanor.
 - Pursuant to Tenn. Code Ann. § 39-13-532(b), statutory rape by an authority figure is a Class B felony offense. Under the proposed legislation, an offender convicted of solicitation of a minor that, if completed, would constitute statutory rape by an authority figure may be sentenced to a Class C felony.
 - This analysis assumes individuals charged with a Class C felony of solicitation of a minor that, if completed, would constitute statutory rape by an authority figure pursuant to this legislation would currently be charged with a Class A misdemeanor of solicitation of a minor that, if completed, would constitute statutory rape pursuant to Tenn. Code Ann. § 39-13-528 under current law.
 - Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of eight Class A misdemeanor convictions of solicitation of a minor in each of the last 10 years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 80 convictions (8 / 10.0%) per year for Class A misdemeanor solicitation of a minor.
 - By applying a ratio of current convictions of applicable offenses, it is estimated that expanding solicitation of a minor by statutory rape by an authority figure will result in 5.89 Class A misdemeanor convictions being classified as a Class C felony under this legislation.
 - The average time served for a Class C felony offense is 1.63 years.
 - Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
 - The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
 - The increase in incarceration costs are estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 110,000	FY23-24
\$ 179,700	FY24-25
\$ 181,600	FY25-26

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$181,600.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- It is assumed that, on average, a person convicted of a Class A misdemeanor will spend a total of 15 days in a local jail.
- The proposed legislation will result in 5.89 convictions annually serving 15 less days in local jail.
- The recurring mandatory decrease in expenditures to local governments is estimated to be \$5,143 (5.89 convictions x \$58.21 x 15) in FY23-24 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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